

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI

S.J.W., A Minor, By And Through His Parents,)
Brian Wilson And Linda Wilson And)
S.W.W., A Minor, By And Through His Parents,)
Brian Wilson And Linda Wilson,)
Plaintiffs,)

Case No: 4:12-CV-285

vs.)

Lee's Summit R-7 School District, et al)
Defendants.)

**PLAINTIFFS' SUGGESTIONS IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND OR CORRECT THE SCHEDULING ORDER**

COME NOW, the Plaintiffs by and through undersigned counsel and provide the following Suggestions in Opposition to Defendants' Motion to Amend or Correct the Scheduling Order:

1. The Lee's Summit R-7 School District ("School District") suspended twin brothers Sean and Steven Wilson for 180 days, for their involvement in an off-campus internet blog.
2. Specifically the Wilson twins were suspended after gossip spread regarding a third student's posting of a racial rant to the internet blog.
3. The Plaintiffs filed the instant action on March 6, 2012.
4. The Court entered its Scheduling Order on October 15, 2012 which ordered that all discovery be completed by December 17, 2012.
5. Since the entry of that Scheduling Order, the Defendants have had had substantial opportunity to conduct discovery but have conducted no depositions and little written discovery.
6. Defendants now request additional time to conduct discovery.

7. Defendants, however, fail to offer any compelling justification to extend discovery in this matter further. Defendants offer no reason as to why they have not completed their discovery as ordered by the Court.¹

8. Furthermore, no additional discovery is warranted because the Court may dispose of the overwhelming majority of the outstanding issues by granting Plaintiffs' pending Motion for Partial Summary Judgment on the Communications Decency Act, 47 U.S.C. §230(c).

9. This motion explained that based upon the Defendants' own admissions the Plaintiffs are entitled to partial summary judgment. The long-term suspension of the Plaintiffs violates the Communications Decency Act. *Id.*

10. That Communications Decency Act provides that users and providers of internet services may not be treated like content producers. *Id.*

11. On multiple instances, School District officials testified that they were punishing the Plaintiffs as a result of the blog as a whole, not simply for their own posts. In essence, the School District treated the Wilsons as if they had created all of the content on the Northpress.TK website.

12. In explaining the punishment of the Wilson twins, Dr. McGehee, the superintendent of the School District, testified that he considered the Wilsons responsible for the content of the entire blog, even though he knew they only posted a fraction of the content.

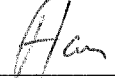
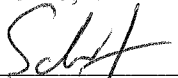
13. No further discovery is warranted in light of the dispositive legal issue before the Court, the School District's own admissions, and the lack of any good cause to correct or amend the Court's prior Order.

¹Shortly before the close of discovery, Defendants unilaterally noticed the depositions of the Plaintiffs. Counsel for the Plaintiffs was unavailable on the date noticed. Undersigned counsel consents to conducting the Plaintiffs' depositions after the existing close of discovery.

14. The Court should stay and ruling on Defendants' Motion until the United States Supreme Court first considers whether to stay the issuance of the Mandate from the Eighth Circuit. The Eighth Circuit has stayed the issuance of its Mandate until January 14, 2013.

WHEREFORE, Plaintiffs respectfully request that this Court deny the Defendants' Motion to Amend or Correct the Scheduling Order, except as to the depositions of the Plaintiffs, grant partial summary judgment to the Plaintiffs, and for all such other and further relief as the Court deems just, appropriate, and equitable under the circumstances.



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I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following participants on the 26 day of December, 2012.

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